



2611

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

DAVID H. COOK et al.

Serial No. 10/047,511

Art Unit: 2611

Filed: October 19, 2001

Examiner: Unknown

For: SYSTEM AND METHOD FOR SELECTIVE
INSERTION OF CONTENT INTO STREAMING MEDIA

Assistant Commissioner of Patents
Washington, D.C. 20231

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RESPONSE TO DECISION DISMISSING PETITION

Sir:

Responsive to the Decision Dismissing Petition mailed August 6, 2002, copy attached, applicants submit herewith the postcard bearing the U.S. Patent and Trademark Office date stamp indicating that **all** pages of the specification and claims were included with the application as filed in the U.S. Patent and Trademark Office on October 19, 2001. The postcard attached to the Petition submitted by Applicants' previous counsel did not have the PTO date stamp.

Applicants respectfully request that the Petition filed May 15, 2002 be granted and that page 6 of the application be inserted into the application as filed and be used in processing and examination of the present application.

Serial No. 10/047,511
Art Unit: 2611
Attorney's Docket No. LET-101

Entry of this document into this application and prompt notification thereof is earnestly solicited.

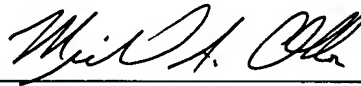
The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to applicants' representative's Deposit Account No. 50-1390. A duplicate copy of this paper is attached for that purpose.

Respectfully submitted,

DAVID H. COOK et al.

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Tel: 703-770-7627

By:



Michael A. Oblon
Reg. No. 42,956

Date: **August 21, 2002**

Document #: 1200049 v.1



Applicant: David H. Cook et al. Docket No. 62467-035
Title/Mark: System and method for selective insertion Serial/Reg./Patent No. 62467-035
Date Sent: 10/19/01 ☐ Hand Carried ☐ 1st-Class Mail ☐ Cert. of Mailing ☒ Express Mail No. 62467-035
☒ Transmittal Letter ☐ Trademark/Service Mark/Intent-To-Use Application ☐ Statement of Use
☐ Utility/Design/Continuation/CIP/FWC/Divisional/PCT ☐ Amendment to Alleged Use ☐ Sheet
Other: 20 pages of Specification ☐ Formal/Informal/Drawings/Specimens (no. of)
2 pages of Claims ☐ Continued Use Affidavit/Declaration (Section 8 & 15)
1 pages of Abstract ☐ Notice of Opposition/Answer to
1 pages of Formal/Informal Drawings ☐ Ex Parte Appeal
☐ Information Disclosure Statement ☐ Petition for Cancellation/Answer to
Form PTO 1449 ☐ Renewal of Reg. No. Unassigned
☐ Preliminary Amendment ☒ Combined Declaration/Power of Attorney Unassigned
☐ Response to Missing Parts Notice ☐ Letter of Protest
☐ Claim for Convention Priority ☐ Request for ___-day/month Extension of Time
☐ Verified Statement of Small Entity Status ☐ Form PTO 85C
☐ Transmittal of Issue Fee: Form PTO 85b ___ years after grant
☐ Maintenance Fee for ___ ☐ Appeal Brief
☐ Notice of Appeal ☐ Trademark: Assignments/Security Agreements/
☐ Response/Amendment to Office Action of ___ ☐ Petition to Commissioner for

J1040 U.S. PTO

10/047511



10/19/01

Other:

Check for \$ ___ Total Deposit Account charge for \$ 370.00 Attorney: Edwin
☐ CHI ☐ WASH

CLO2 Descrip.:

THE PATENT AND TRADEMARK OFFICE DATE STAMPED HEREON IS ACKNOWLEDGEMENT THAT THE ITEMS, CHECKED ABOVE, WERE RECEIVED BY THE PTO ON THE DATE STAMPED.

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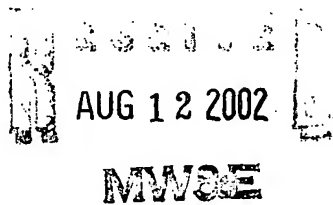


LET-101

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In re Application of
Cook et al.
Application No. 10/047,511
Filed: 19 October, 2001
Attorney Docket No. 62967-035

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: DECISION DISMISSING
: PETITION
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This is a decision on the petition under 37 CFR 1.53 filed on 15 May, 2002, requesting that the above-identified application be accorded a filing date of 19 October, 2001, with Page 6 of the specification as a part of the original disclosure.

The petition is dismissed.

On 19 October, 2001, the application was filed.

On 15 March, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Nonprovisional Application stating that the application had been accorded a filing date of 19 October, 2001, but that, *inter alia*, Page 6 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 15 May, 2002, the present petition was filed. Petitioners argue that Page 6 was not missing on 19 October, 2001. Petitioners point to their postcard receipt as evidence that Page 6 of the specification was among the application papers filed on 19 October, 2001. Petitioners request that the application be accorded a filing date of 19 October, 2001, with Page 6 as a part of the original disclosure.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard

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identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). Unfortunately, petitioners' postcard receipt does not bear an Office-date stamp from the USPTO. As such, the postcard receipt does not serve as evidence that the items listed therein were received in the USPTO. If petitioners have a copy of the postcard receipt for this application with a USPTO "Office date" stamp, a copy of that postcard should be submitted with any renewed petition.

The petition is dismissed.

The copy of Page 6 of the specification supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioners may choose to file Page 6 as a preliminary amendment. If Page 6 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

The petition fee of \$130.00 will not be refunded since the present petition was not necessitated by Office error.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 15 March, 2002, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy